

**SOLID AND HAZARDOUS WASTE**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: David Ure**

**This act modifies the Environmental Quality Code to clarify that commercial and municipal landfill facilities that accept only construction and demolition waste are designated as class IV facilities, and requiring that if this type of facility currently has another classification, the department shall change the designation to class IV.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**19-6-120**, as last amended by Chapter 282, Laws of Utah 1992

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **19-6-120** is amended to read:

**19-6-120. New hazardous waste operation plans -- Designation of hazardous waste facilities -- Fees for filing and plan review.**

(1) For purposes of this section, the following items shall be treated as submission of a new hazardous waste operation plan:

(a) the submission of a revised hazardous waste operation plan specifying a different geographic site than a previously submitted plan;

(b) an application for modification of a commercial hazardous waste incinerator if the construction or the modification would increase the commercial hazardous waste incinerator capacity above the capacity specified in the operation plan as of January 1, 1990, or the capacity specified in the operation plan application as of January 1, 1990, if no operation plan approval has been issued as of January 1, 1990; or

(c) an application for modification of a commercial hazardous waste treatment, storage, or disposal facility, other than an incinerator, if the modification would be outside the boundaries of the property owned or controlled by the applicant, as shown in the application or approved



operation plan as of January 1, 1990, or the initial approved operation plan if initial approval is subsequent to January 1, 1990.

(2) Capacity under Subsection (1)(b) shall be calculated based on the throughput tonnage specified for the trial burn in the operation plan or the operation plan application if no operation plan approval has been issued as of January 1, 1990, and on annual operations of 7,000 hours.

(3) (a) Hazardous waste facilities that are subject to payment of fees under this section or Section 19-1-201 for plan reviews under Section 19-6-108 shall be designated by the department as either class I, class II, class III, or class IV facilities.

(b) The department shall designate commercial hazardous waste facilities containing either landfills, surface impoundments, land treatment units, thermal treatment units, incinerators, or underground injection wells, which primarily receive wastes generated by off-site sources not owned, controlled, or operated by the facility owner or operator, as class I facilities.

(4) The maximum fee for filing and review of each class I facility operation plan is \$200,000, and is due and payable as follows:

(a) The owner or operator of a class I facility shall, at the time of filing for plan review, pay to the department the nonrefundable sum of \$50,000.

(b) Upon issuance by the executive secretary of a notice of completeness under Section 19-6-108, the owner or operator of the facility shall pay to the department an additional nonrefundable sum of \$50,000.

(c) The department shall bill the owner or operator of the facility for any additional actual costs of plan review, up to an additional \$100,000.

(5) (a) The department shall designate hazardous waste incinerators that primarily receive wastes generated by sources owned, controlled, or operated by the facility owner or operator as class II facilities.

(b) The maximum fee for filing and review of each class II facility operation plan is \$150,000, and shall be due and payable as follows:

(i) The owner or operator of a class II facility shall, at the time of filing for plan review under Section 19-6-108, pay to the department the nonrefundable sum of \$50,000.

(ii) The department shall bill the owner or operator of the facility for any additional actual costs of plan review, up to an additional \$100,000.

(6) (a) The department shall designate hazardous waste facilities containing either

landfills, surface impoundments, land treatment units, thermal treatment units, or underground injection wells, that primarily receive wastes generated by sources owned, controlled, or operated by the facility owner or operator, as class III facilities.

(b) The maximum fee for filing and review of each class III facility operation plan is \$100,000 and is due and payable as follows:

(i) The owner or operator shall, at the time of filing for plan review, pay to the department the nonrefundable sum of \$1,000.

(ii) The department shall bill the owner or operator of each class III facility for actual costs of operation plan review, up to an additional \$99,000.

(7) (a) All other hazardous waste facilities are designated as class IV facilities.

(b) (i) Commercial and municipal facilities that accept only construction and demolition waste are designated as class IV facilities.

(ii) If any commercial or municipal facility that accepts only construction and demolition waste has been assigned a classification other than class IV facility, the department shall change the designation of the facility to class IV as soon as is practicable, but not later than June 31, 2002.

~~[(b)]~~ (c) The maximum fee for filing and review of each class IV facility operation plan is \$50,000 and is due and payable as follows:

(i) The owner or operator shall, at the time of filing for plan review, pay to the department the nonrefundable sum of \$1,000.

(ii) The department shall bill the owner or operator of each class IV facility for actual costs of operation plan review, up to an additional \$49,000.

(8) (a) The maximum fee for filing and review of each major modification plan and major closure plan for a class I, class II, or class III facility is \$50,000 and is due and payable as follows:

(i) The owner or operator shall, at the time of filing for that review, pay to the department the nonrefundable sum of \$1,000.

(ii) The department shall bill the owner or operator of the hazardous waste facility for actual costs of the review, up to an additional \$49,000.

(b) The maximum fee for filing and review of each minor modification and minor closure plan for a class I, class II, or class III facility, and of any modification or closure plan for a class IV facility, is \$20,000, and is due and payable as follows:

(i) The owner or operator shall, at the time of filing for that review, pay to the department

the nonrefundable sum of \$1,000.

(ii) The department shall bill the owner or operator of the hazardous waste facility for actual costs of review up to an additional \$19,000.

(c) The owner or operator of a thermal treatment unit shall submit a trial or test burn schedule 90 days prior to any planned trial or test burn. At the time the schedule is submitted, the owner or operator shall pay to the department the nonrefundable fee of \$25,000. The department shall apply the fee to the costs of the review and processing of each trial or test burn plan, trial or test burn, and trial or test burn data report. The department shall bill the owner or operator of the facility for any additional actual costs of review and preparation.

(9) (a) The owner or operator of a class III facility may obtain a plan review within the time periods for a class II facility operation plan by paying, at the time of filing for plan review, the maximum fee for a class II facility operation plan.

(b) The owner or operator of a class IV facility may obtain a plan review within the time periods for a class II facility operation plan by paying, at the time of filing for plan review, the maximum fee for a class III facility operation plan.

(c) An owner or operator of a class I, class II, or class III facility who submits a major modification plan or a major closure plan may obtain a plan review within the time periods for a class II facility operation plan by paying, at the time of filing for plan review, the maximum fee for a class II facility operation plan.

(d) An owner or operator of a class I, class II, or class III facility who submits a minor modification plan or a minor closure plan, and an owner or operator of a class IV facility who submits a modification plan or a closure plan, may obtain a plan review within the time periods for a class II facility operation plan by paying, at the time of filing for plan review, the maximum fee for a class III facility operation plan.

(10) All fees received by the department under this section shall be deposited in the General Fund as dedicated credits for hazardous waste plan reviews in accordance with Subsection (12) and Section 19-6-108. All funding of the hazardous waste plan review program is nonlapsing.

(11) (a) (i) The executive secretary shall establish an accounting procedure that separately accounts for fees paid by each owner or operator who submits a hazardous waste operation plan for approval under Section 19-6-108 and pays fees for hazardous waste plan reviews under this section or Section 19-1-201.

(ii) The executive secretary shall credit all fees paid by the owner or operator to that owner or operator.

(iii) The executive secretary shall account for costs actually incurred in reviewing each operation plan and may only use the fees of each owner or operator for review of that owner or operator's plan.

(b) If the costs actually incurred by the department in reviewing a hazardous waste operation plan of any facility are less than the nonrefundable fee paid by the owner or operator under this section, the department may, upon approval or disapproval of the plan by the board or upon withdrawal of the plan by the owner or operator, use any remaining funds that have been credited to that owner or operator for the purposes of administering provisions of the hazardous waste programs and activities authorized by this part.

(12) (a) With regard to any review of a hazardous waste operation plan, modification plan, or closure plan that is pending on April 25, 1988 the executive secretary may assess fees for that plan review.

(b) The total amount of fees paid by an owner or operator of a hazardous waste facility whose plan review is affected by this subsection may not exceed the maximum fees allowable under this section for the appropriate class of facility.

(13) (a) The department shall maintain accurate records of its actual costs for each plan review under this section.

(b) Those records shall be available for public inspection.

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### **Legislative Review Note**

**as of 1-29-02 8:36 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**